HONORING DR. MARILYN WHIRRY, CALIFORNIA'S TEACHER OF THE YEAR

HON. STEVEN T. KUYKENDALL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. KUYKENDALL, Mr. Speaker, I rise today to recognize an exceptional individual from my district, Dr. Marilyn Whirry. Dr. Whirry, an English teacher in Manhattan Beach, was recently named California's Teacher of the Year. She is the first South Bay teacher to win this award and advance to the National Teacher of the Year competition.

For over 30 years, Dr. Whirry has taught English to students in grades 9–12 at Mira Costa High School. She has touched the lives of thousands, instilling in her students the importance of education.

She currently teaches Advanced Placement English to Mira Costa seniors. When Dr. Whirry took over the program 9 years ago, only 26 students were in the class. The program has since developed under her direction and now enrollment is roughly 150 students. She expects a lot from her students, and implements a challenging curriculum focused upon rigorous learning and discovery.

Dr. Whirry's commitment to educational excellence extends beyond the Manhattan Beach Unified School District. She is also a professor at Loyola Marymount University and regularly conducts reading workshops throughout southern California. She has been a consultant for several states including California, and she has also advised President Clinton. Last year she was selected as the chairperson of the National Assessments Governing Board's committee to develop a voluntary national reading test to assess fourth graders. Over her career, she has become a national leader in education.

I congratulate Dr. Marilyn Whirry on being selected as California's Teacher of the Year. It is a testament of her commitment to her students as well as a reflection of the quality of education in the South Bay. She is a valuable member of the community, and I wish her much success in the national competition. The students and parents of Manhattan Beach are grateful to have her as an educator.

H.R. 3375: CONVICTED OFFENDER DNA INDEX SYSTEM SUPPORT ACT OF 1999

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. GILMAN. Mr. Speaker, today, I'm introducing H.R. 3375, the Convicted Offender DNA Index System Support Act of 1999. This legislation will provide assistance to the States to eliminate their backlog of convicted offender DNA samples, provide grants to the States to eliminate their backlog of DNA evidence for cases for which there are no suspects, provide funding to the Federal Bureau of Investigation (FBI) to eliminate their unsolved casework backlog, expand collection efforts to include Federal, District of Columbia (DC) and military violent convicted offenders into the Combined DNA Index System (CODIS), and authorize the construction of a missing persons database. Joining me as cosponsors are, my friends and colleagues, co-chairman of the Congressional Law Enforcement Caucus, Congressmen JIM RAMSTAD of (Minnesota) and BART STUPAK of Michigan.

Mr. Speaker, in 1994, the Congress passed the DNA Identification Act, which authorized the construction of the Combined DNA Index System, or CODIS, to assist our Federal, State, and local law enforcement agencies in fighting violent crime throughout the Nation. CODIS is a master database for all law enforcement agencies to submit and retrieve DNA samples of convicted violent offenders. Since beginning its operation in 1998, the system has worked extremely well in assisting law enforcement by matching DNA evidence with possible suspects and has accounted for the capture of over 200 suspects in unsolved violent crimes.

However, because of the high volume of convicted offender samples needed to be analyzed, a nationwide backlog of approximately 600,000 unanalyzed convicted offender DNA samples has formed. Furthermore, because the program has been so vital in assisting crime fighting and prevention efforts, our States are expanding their collection efforts. Recently, although New York State already has a backlog of approximately 2,000 samples, Governor George Pataki recently announced that the State will be expanding their collection of DNA samples to require all violent felons and a number of nonviolent felony offenders.

State forensic laboratories have also accumulated a backlog of evidence for cases for which there are no suspects. These are evidence ''kits'' for unsolved violent crimes which are stored away because our State forensic laboratories do not have the support necessary to analyze them and compare the evidence to our nationwide data bank. Presently, there are approximately 12,000 rape cases in New York City alone, and, it is estimated, approximately 180,000 rape cases nationwide, which are unsolved and unanalyzed. This number represents a dismal future for the success of CODIS and reflects the growing problem facing our law enforcement community. The successful elimination of both the convicted violent offender backlog and the unsolved casework backlog will play a major role in the future of our State's crime prevention and law enforcement efforts.

The Convicted Offender DNA Index System Support Act will also provide funding to the Federal Bureau of Investigation to eliminate their unsolved casework backlog and close a loophole created by the original legislation. Although all 50 States require DNA collection from designated convicted offenders, for some inexplicable reason, convicted Federal, District of Columbia, and military offenders are exempt. H.R. 3375 closes that loophole by requiring the collection of samples from any Federal, military, or DC offender convicted of a violent crime.

Moreover, this measure includes a provision, which will permit the FBI to construct a missing person database. This program will permit family members who have lost a loved one to voluntarily enter their DNA profile into a national registry. Should a missing child be found, this database will provide our law enforcement agencies with a system to locate the displaced families and bring the child home. Furthermore, it will allow individuals who, in later years, suspect they have been abducted to refer to the FBI in search of a match to their DNA.

I recently assisted in coordinating a pilot program between the National Center for Missing and Abducted Children, the Department of State, the Department of Justice, and the Rockland County, New York Clerk's and Sheriff's Offices, which will assist in stopping individuals from smuggling children out of the country. This program is an important step in protecting our Nation's children. However, constructing a missing person's database will provide a strong, national foundation to assist our Nation's families and law enforcement in the fight against child abduction.

Mr. Speaker, as you are aware, our Nation's fight against crime is never over. Every day, the use of DNA evidence is becoming a more important tool to our Nation's law enforcement in solving crimes, convicting the guilty and exonerating the innocent. The Justice Department estimates that erasing the convicted offender backlog nationwide could resolve at least 600 cases. The true amount of unsolved cases, both State and Federal, which may be concluded through the elimination of both backlogs is unknown. However, if one more case is solved and one more violent offender is detained because of our efforts, we have succeeded.

In conclusion, as we prepare to step into the 21st century, we must ensure that our Nation's law enforcement has the equipment and support necessary to fight violent crime and protect our communities. H.R. 3375, the Convicted Offender DNA Index System Support Act, will assist our local, State, and Federal law enforcement personnel by ensuring that crucial resources are provided to our DNA data-banks and crime laboratories.

COMMENDING J.C. CHAMBERS FOR HIS GREAT SUPPORT OF LUBBOCK CHARITIES

HON. LARRY COMBEST

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. COMBEST. Mr. Speaker, I rise today to honor Mr. J.C. Chambers, an individual who understands the meaning of dedication and service to his neighbors and his community. On November 10, Mr. J.C. Chambers of Lubbock, TX, received the 1999 Award for Philanthropy. This award recognizes all of the many civic activities for which he has volunteered and supported. J.C.'s volunteer work in Lubbock spans 40 years and includes leading the Lubbock United Way as president and campaign chairman. He has also chaired the Red Raider Club in Lubbock. Furthermore, J.C. serves as a board member of the Lubbock Methodist Hospital Foundation, the Advisory Board of the Southwest Institute for Addictive Diseases, the Committee of Champions, the Texas Board of Health, the Center for the Study of Addiction, and the Children's Orthopaedic Center.

J.C. has earned many additional awards honoring his achievements, such as Lubbock's Outstanding Young Man in 1965 and Lubbock Christian College's Servant Leader of the Year

in 1985. In 1990, he received the Distinguished Alumni of Texas Tech honor and in 1992, the People of Vision Award. Mr. Chambers earned the Rita P. Harmon Volunteer Service Award from the United Way in 1995, the William Booth Award from the Salvation Army, and the Lubbock Chamber of Commerce Distinguished Citizen Award in 1998.

J.C. has been a local insurance sales agent at Massachusetts Mutual Life Insurance Company in Lubbock since 1957. He graduated Lubbock High School in 1950 and from Texas Tech University in 1954. J.C. volunteers out of a sense of responsibility to his community. Through his service, he has made the city of Lubbock and our society a better place to live. I would like to congratulate Mr. J.C. Chambers for his outstanding commitment to others.

THE INTRODUCTION OF H.R. , THE TRADE ENHANCEMENT ACT OF 1999

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 16, 1999

Mr. LEVIN. Mr. Speaker, today, along with Representatives HOUGHTON and THURMAN, I am introducing the Trade Enhancement Act of 1999. This bill will strengthen the ability of the U.S. government to counteract foreign country measures that act as market access barriers to U.S. agricultural and manufactured goods and services. It will do this by updating section 301 of the Trade Act of 1974, as well as the Sherman Antitrust Act.

For 25 years, section 301 has been essential to the effective conduct of U.S. trade policy. Section 301 investigations by the Office of the U.S. Trade Representative (''USTR'') have opened foreign markets for U.S. workers, farmers and businesses. These investigations have also led to negotiation of multilateral and bilateral agreements that liberalize trade, expand markets and strengthen rules of fair and open competition for manufactured and agricultural products and services, and improve protection of intellectual property rights. Today, benefits from these agreements flow not only to the United States, but to all WTO members.

Section 301 remains an important policy tool, even with the advent of binding dispute settlement in the WTO. As international trade and economic integration have grown, new barriers have arisen or have become more apparent. In a number of cases, neither U.S. laws nor WTO rules yet provide an adequate means for addressing such barriers. This bill identifies three significant gaps in the existing body of U.S. and WTO law and amends U.S. law to address foreign country barriers that exploit those gaps.

The first gap concerns market access barriers masquerading as health and safety measures. Such barriers come within the purview of the WTO Agreement on Sanitary and Phytosanitary Measures (''the SPS Agreement''). However, barriers in this sector have tended to proliferate in a fragmented way, which makes them difficult to challenge one at a time. WTO-inconsistent health and safety regulations often focus on individual products or narrow product categories. It is generally inefficient to take each one on independently. However, there is no mechanism under current law to call attention to or challenge a series of regulations en bloc.

This bill begins to fill that gap by creating an ''SPS Special 301'' provision, modeled after the existing Special 301 for measures affecting intellectual property rights. It requires USTR to make an annual identification of the most onerous or egregious instances of foreign country trade barriers disguised as health and safety measures. As with Special 301 for intellectual property rights, identification of the priority foreign country SPS measures will trigger a requirement for USTR to undertake a section 301 investigation of those measures.

The bill also requires the President to take into account the extent to which a country's health and safety regulations are based on scientific evidence in determining that country's eligibility for benefits under the Generalized System of Preferences.

The second gap in current U.S. and WTO law concerns market access barriers that take the form of private anticompetitive conduct supported, fostered, or tolerated by a foreign government. For example, some governments delegate regulatory-type authority to trade associations, which are thereby able to engage in conduct that would violate the antitrust laws if engaged in by entities in the United States. These practices allow foreign producers to gain a regulatory advantage over exporters from the United States and other countries.

Neither current U.S. laws nor the rules of the WTO are equipped to address fully joint public-private market access barriers. Section 301 authorizes USTR to respond to certain foreign government measures, but does not refer expressly to some of the forms of conduct that make these barriers effective. Nor does section 301 authorize USTR to respond to the private activity component of these barriers.

U.S. antitrust law authorizes the Justice Department and Federal Trade Commission to address foreign anticompetitive conduct that harms U.S. exports, but this authority has rarely been exercised, and there is no requirement that it be exercised in appropriate cases.

Nor are WTO rules yet adequate to address joint public-private anticompetitive conduct. This was illustrated by the recent Japan-Film decision, in which the WTO declined to find that U.S. benefits under the WTO had been ''nullified or impaired'' due to a Japanese distribution regime that discriminated against imports, including U.S.-made photographic film and paper.

Joint public-private barriers flourish in environments where government rulemaking and administration are opaque. While WTO rules require transparency in these processes, the WTO to date has failed to apply its rules in a way that achieves that result. Also, the WTO rules are not designed to address the private component of joint public-private market access barriers.

The Trade Enhancement Act of 1999 begins to fill this second gap by upgrading the authority of USTR so that the agency is better able to respond to joint public-private market access barriers. It does this in two principal ways.

First, the bill broadens the definition of foreign conduct that will trigger USTR's authority to take responsive action. To the category of conduct requiring responsive action by USTR, the bill adds a foreign government's fostering of systematic anticompetitive activities. (Under current law, a foreign government's toleration of systematic anticompetitive activities triggers USTR's discretionary authority to take responsive action.) The bill also makes clear that anticompetitive conduct triggering USTR's authority includes conduct coordinated between or among foreign countries (not just within a single foreign country) and conduct that has the effect of diverting goods to the U.S. market (not just conduct that keeps U.S. goods and services out of foreign markets).

Second, the bill establishes a mechanism for addressing the private components of joint public-private market access barriers. Under current law, at the conclusion of a section 301 investigation, USTR must determine whether the foreign country under investigation has engaged in conduct requiring or warranting responsive action. Under this bill, if that determination is affirmative, USTR will be required to make an additional determination, to wit: whether there is reason to believe that the conduct at issue involves anticompetitive conduct by any person or persons. If the latter determination is also affirmative, USTR will be required to refer the matter to the Department of Justice.

Upon referral of a matter from USTR, the Department of Justice will be required to undertake an investigation to determine whether there is reason to believe that any persons have violated the Sherman Antitrust Act. That investigation ordinarily will have to be completed within 180 days. An affirmative determination will require the Department either to commence an enforcement action against the alleged violators or explain to Congress its reasons for declining to do so.

The third gap in current law is the lack of any express penalty for foreign non-cooperation in the gathering of evidence relevant to an investigation of market access barriers. In recent years, there have been several instances in which a foreign government refused to cooperate with USTR in the conduct of a section 301 investigation or the enforcement of a bilateral trade agreement. In certain cases, these attempts to obstruct the conduct of an investigation extended even to refusing to meet with Cabinet-level and other senior Administration officials. These actions prevent the United States from developing a factual basis to understand and resolve important trade problems and issues and, in addition, contradict longstanding norms of diplomatic behavior.

The Trade Enhancement Act of 1999 begins to fill the third gap by creating a deterrent to non-cooperation in investigations of market access barriers. USTR will be authorized to draw an inference adverse to the interests of a foreign respondent in the event of non-cooperation in the provision of relevant evidence. The adverse inference would be limited to the issues on which the foreign government refused to cooperate. This sanction is modeled on discovery sanctions that courts and administrative bodies in the United States commonly apply.

Mr. Speaker, it is important that the agencies working to open foreign markets to U.S. goods, services, and capital be equipped with modern tools to address modern problems. It has been over a decade since these tools were last upgraded. In that time, the nature of foreign trade-impeding activity has changed. It has become more sophisticated. The tools used to defend U.S. rights ought to be equally sophisticated. Accordingly, I urge my colleagues to support this bill, and I urge that it